

Second Regular Session 111th General Assembly (2000)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

HOUSE ENROLLED ACT No. 1102

AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-1-16-1, AS AMENDED BY P.L.272-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter:

"Authority" refers to the Indiana health facility financing authority.

"Bonds" includes bonds, refunding bonds, notes, interim certificates, bond anticipation notes, and other evidences of indebtedness of the authority, issued under this chapter.

"Building" or "buildings" or similar words mean any building or part of a building or addition to a building for health care purposes. The term includes the site for the building (if a site is to be acquired), equipment, heating facilities, sewage disposal facilities, landscaping, walks, drives, parking facilities, and other structures, facilities, appurtenances, materials, and supplies that may be considered necessary to render a building suitable for use and occupancy for health care purposes.

"Cost" includes the following:

- (1) The cost and the incidental and related costs of the acquisition, repair, restoration, reconditioning, refinancing, or installation of health facility property.
- (2) The cost of any property interest in health facility property, including an option to purchase a leasehold interest.
- (3) The cost of constructing health facility property, or an addition

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to health facility property, acquiring health facility property, or remodeling health facility property.

(4) The cost of architectural, engineering, legal, trustee, underwriting, and related services; the cost of the preparation of plans, specifications, studies, surveys, and estimates of cost and of revenue; and all other expenses necessary or incident to planning, providing, or determining the need for or the feasibility and practicability of health facility property.

(5) The cost of financing charges, including premiums or prepayment penalties and interest accrued during the construction of health facility property or before the acquisition and installation or refinancing of such health facility property for up to two (2) years after such construction, acquisition, and installation or refinancing and startup costs related to health facility property for up to two (2) years after such construction, acquisition, and installation or refinancing.

(6) The costs paid or incurred in connection with the financing of health facility property, including out-of-pocket expenses, the cost of any policy of insurance; the cost of printing, engraving, and reproduction services; and the cost of the initial or acceptance fee of any trustee or paying agent.

(7) The costs of the authority, incurred in connection with providing health facility property, including reasonable sums to reimburse the authority for time spent by its agents or employees in providing and financing health facility property.

(8) The cost paid or incurred for the administration of any program for the purchase or lease of or the making of loans for health facility property, by the authority and any program for the sale or lease of or making of loans for health facility property to any participating provider.

"County" means any county in the state that owns and operates a county hospital.

"Health facility property" means any tangible or intangible property or asset owned or used by a participating provider and which:

(1) is determined by the authority to be necessary or helpful, directly or indirectly, to provide:

- (A) health care;
- (B) medical research;
- (C) training or teaching of health care personnel;
- (D) habilitation, rehabilitation, or therapeutic services; or
- (E) any related supporting services;

~~in Indiana~~, regardless of whether such property is in existence at

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the time of, or is to be provided after the making of, such finding;

(2) is a residential facility for:

- (A) the physically, mentally, or emotionally disabled;
- (B) the physically or mentally ill; or
- (C) the elderly; or

(3) is a licensed child caring institution providing residential care described in IC 12-7-2-29(1) **or corresponding provisions of the laws of the state in which the property is located.**

"Health facility" means any facility or building **that is:**

(1) owned or used by a participating provider; ~~which is~~

(2) **located:**

(A) **in Indiana; or**

(B) **outside Indiana, if the participating provider that operates the facility or building, or an affiliate of the participating provider, also operates a substantial health facility or facilities, as determined by the authority, in Indiana; and**

(3) utilized, directly or indirectly:

(+) (A) in:

- ~~(A)~~ (i) health care;
- ~~(B)~~ (ii) habilitation, rehabilitation, or therapeutic services;
- ~~(C)~~ (iii) medical research;
- ~~(D)~~ (iv) the training or teaching of health care personnel; or
- ~~(E)~~ (v) any related supporting services;

(-) (B) to provide a residential facility for:

- ~~(A)~~ (i) the physically, mentally, or emotionally disabled;
- ~~(B)~~ (ii) the physically or mentally ill; or
- ~~(C)~~ (iii) the elderly; or

(-) (C) as a child caring institution and provides residential care described in IC 12-7-2-29(1) **or corresponding provisions of the laws of the state in which the facility or building is located.**

"Net revenues" means the revenues of a hospital remaining after provision for proper and reasonable expenses of operation, repair, replacement, and maintenance of the hospital.

"Participating provider" means a person, corporation, municipal corporation, political subdivision, or other entity, public or private, which:

(1) **is located in Indiana or outside Indiana;**

(2) **contracts with the authority for the financing or refinancing of, or the lease or other acquisition of, health facility property that is located:**



(A) in Indiana; or

(B) outside Indiana, if the financing, refinancing, lease, or other acquisition also includes a substantial component, as determined by the authority, for the benefit of a health facility or facilities located in Indiana;

(3) is:

(A) licensed under IC 12-25, IC 16-21, or IC 16-28, or corresponding laws of the state in which the property is located;

(B) a regional blood center;

(C) a community mental health center or community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-38 and IC 12-7-2-39 or corresponding provisions of laws of the state in which the property is located);

(D) an entity that:

(i) contracts with the division of disability, aging, and rehabilitative services or the division of mental health to provide the program described in IC 12-11-1.1-1(e) or IC 12-22-2; or

(ii) provides a similar program under the laws of the state in which the entity is located;

(E) a vocational rehabilitation center established under IC 12-12-1-4(1) or corresponding provisions of the laws of the state in which the property is located;

(F) the owner or operator of a facility that is utilized, directly or indirectly, to provide health care, habilitation, rehabilitation, therapeutic services, medical research, the training or teaching of health care personnel, or any related supporting services, or of a residential facility for the physically, mentally, or emotionally disabled, physically or mentally ill, or the elderly;

(G) a licensed child caring institution providing residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the property is located;

(H) an integrated health care system between or among providers, a health care purchasing alliance, a health insurer or third party administrator that is a participant in an integrated health care system, a health maintenance or preferred provider organization, or a foundation that supports a health care provider; or

(I) an individual, a business entity, or a governmental entity

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that owns an equity or membership interest in any of the organizations described in clauses (A) through (H); and
 (2) under this chapter, contracts with the authority for the financing or refinancing of, or the lease or other acquisition of, health facility property.

(4) in the case of a person, corporation, municipal corporation, political subdivision, or other entity located outside Indiana, is owned or controlled by, under common control with, affiliated with, or part of an obligated group that includes an entity that provides one (1) or more of the following services or facilities in Indiana:

(A) A facility that provides:

- (i) health care;
- (ii) habilitation, rehabilitation, or therapeutic services;
- (iii) medical research;
- (iv) training or teaching of health care personnel; or
- (v) any related supporting services.

(B) A residential facility for:

- (i) the physically, mentally, or emotionally disabled;
- (ii) the physically or mentally ill; or
- (iii) the elderly.

(C) A child caring institution providing residential care described in IC 12-7-2-29(1).

"Regional blood center" means a nonprofit corporation or corporation created under 36 U.S.C. 1 that:

(1) is:

- (A) accredited by the American Association of Blood Banks; or
- (B) registered or licensed by the Food and Drug Administration of the Department of Health and Human Services; and

(2) owns and operates a health facility that is primarily engaged in:

- (A) drawing, testing, processing, and storing human blood and providing blood units or components to ~~Indiana~~ hospitals; or
- (B) harvesting, testing, typing, processing, and storing human body tissue and providing this tissue to ~~Indiana~~ hospitals.

SECTION 2. IC 5-1-16-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) The authority has all powers necessary to carry out and effectuate its public and corporate purposes, including but not limited to the following:

(1) To have perpetual succession as a public body politic and



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corporate and an independent public instrumentality exercising essential public functions.

(2) To adopt, amend, and repeal bylaws and rules consistent with this chapter, to regulate its affairs, to carry into effect the powers and purposes of the authority and conduct its business, which rules and bylaws may be adopted by the authority without complying with IC 4-22-2.

(3) To sue and be sued in its own name.

(4) To have an official seal.

(5) To maintain an office in Indiana.

(6) To make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter.

(7) To employ architects, engineers, independent legal counsel, inspectors, accountants, and health care and financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment without the approval of or consent by any other state official, and to fix their compensation.

(8) To procure insurance against any loss in connection with its property and other assets, in such amounts and from such insurers as it considers advisable, including the power to pay premiums on any such insurance.

(9) To procure insurance or guarantees from any public or private entities, including any department, agency, or instrumentality of the United States of America, to secure payment:

(A) on a loan, lease, or purchase payment owed by a participating provider to the authority; and

(B) of any bonds issued by the authority, including the power to pay premiums on any such insurance or guarantee.

(10) To procure letters of credit or other credit facilities or agreements from any national or state banking association or other entity authorized to issue a letter of credit or other credit facilities or agreements to secure the payment of any bonds issued by the authority or to secure the payment of any loan, lease, or purchase payment owed by a participating provider to the authority, including the power to pay the cost of obtaining such letter of credit or other credit facilities or agreements.

(11) To receive and accept from any source any money, property, or thing of value to be held, used, and applied to carry out the purposes of this chapter subject to the conditions upon which the grants or contributions are made, including gifts or grants from any department, agency, or instrumentality of the United States of

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America for any purpose consistent with this chapter.

(12) To provide, or cause to be provided by a participating provider, by acquisition, lease, construction, fabrication, repair, restoration, reconditioning, refinancing, or installation, of health facility property to be located within a health facility. ~~in Indiana.~~

(13) To lease as lessor any item of health facility property for such rentals and upon such terms and conditions as the authority considers advisable and are not in conflict with this chapter.

(14) To sell by installment or otherwise to sell by option or contract for sale, and to convey all or any part of any item of health facility property for such price and upon such terms and conditions as the authority considers advisable and as are not in conflict with this chapter.

(15) To make contracts and incur liabilities, borrow money at such rates of interest as the authority determines, issue its bonds in accordance with this chapter, and secure any of its bonds or obligations by a mortgage or pledge of all or any of its property, franchises, and income or as otherwise provided in this chapter.

(16) To make secured or unsecured loans for the purpose of providing temporary or permanent financing or refinancing for the cost of any item of health facility property, including the retiring of any outstanding obligations issued by a participating provider, and the reimbursement to a participating provider of advances, for the cost of any health facility property purchased in anticipation of procuring such financing or refinancing from the authority or other sources, and to charge and collect interest on such loans for such loan payments and upon such terms and conditions as the authority considers advisable and as are not in conflict with this chapter.

(17) To invest and reinvest its funds and to take and hold property as security for the investment of such funds as provided in this chapter.

(18) To purchase, receive, lease (as lessee or lessor), or otherwise acquire, own, hold, improve, use, or otherwise deal in and with, health facility property, or any interest therein, wherever situated.

(19) To sell, convey, mortgage, pledge, assign, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets.

(20) To the extent permitted under its contract with the holders of bonds of the authority, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any contract, loan, loan

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note, loan note commitment, contract, lease, or agreement of any kind to which the authority is a party.

(21) To charge to and apportion among participating providers its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter.

(22) Except as otherwise provided in a trust agreement or bond resolution securing bonds of the authority, to invest any funds not needed for immediate disbursement, including any funds held in reserve, in such indebtedness or obligations designated by the authority for investments of its funds held under this chapter.

(23) To collect fees and charges, as the authority determines to be reasonable, in connection with its loans, leases, sales, advances, insurance, commitments, and servicing.

(24) To cooperate with and exchange services, personnel, and information with any federal, state, or local governmental agency.

(25) To sell, at public or private sale, with or without public bidding, any loan or other obligation held by the authority.

(26) To assist, coordinate, and participate with other issuers of tax exempt bonds and public officials in other states in connection with financings or refinancings on behalf of multiple state health facilities. Assistance, coordination, and participation provided under this subdivision may include conducting any hearings required by state or federal law in order for bonds to be issued by public officials in other states if part of the proceeds of the bonds will be used by participating providers in Indiana. Any assistance, coordination, or participation provided under this subsection is given with the understanding that the issuers of tax exempt bonds or borrowers will agree to indemnify and hold harmless the state of Indiana and the authority and their officers, agents, and employees from all claims and liability arising from any action against the state of Indiana or the authority relating to the bonds.

(b) No part of the revenues or assets of the authority may inure to the benefit of or be distributable to its members or officers or other private persons. Any net earnings of the authority beyond that necessary for retirement of authority indebtedness or to implement the public purposes of this chapter inure to the benefit of the state. Upon termination or dissolution, all rights and properties of the authority pass to and are vested in the state, subject to the rights of lienholders and other creditors.

SECTION 3. IC 5-1-16-15 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. The authority may initiate a program of providing health facility property to be operated by participating providers in health facilities. ~~in Indiana.~~ In furtherance of this objective, the authority may also:

- (1) establish eligibility standards for participating providers, without complying with IC 4-22-2; however, these standards have the force of law if the standards are adopted after a public hearing for which notice has been published in a newspaper published in the city of Indianapolis, at least ten (10) days in advance of the hearing;
- (2) contract with any entity securing the payment of bonds under section 13(a)(9) and ~~(10)~~ **13(a)(10)** of this chapter, authorizing the entity to approve the participating providers that can finance or refinance health facility property with proceeds from the bond issue secured by that entity;
- (3) lease to a participating provider specific items of health facility property upon terms and conditions that the authority considers proper, to charge and collect rents therefor, to terminate any such lease upon the failure of the lessee to comply with any of its obligations under the lease or otherwise as the lease provides, to include in any such lease provisions that the lessee has the options to renew the term of the lease for such periods and at such rents as may be determined by the authority or to purchase any or all of the health facility property to which the lease applies;
- (4) loan to a participating provider under an installment purchase contract or loan agreement money to finance, reimburse, or refinance the cost of specific items of health facility property and to take back a secured or unsecured promissory note evidencing such a loan and a security interest in the health facility property financed or refinanced with such loan, upon such terms and conditions as the authority considers proper;
- (5) sell or otherwise dispose of any unneeded or obsolete health facility property under terms and conditions as determined by the authority;
- (6) maintain, repair, replace, and otherwise improve or cause to be maintained, repaired, replaced, and otherwise improved any health facility property owned by the authority;
- (7) obtain or aid in obtaining property insurance on all health facility property owned or financed, or to accept payment if any health facility property is damaged or destroyed; and
- (8) enter into any agreement, contract, or other instrument with respect to any insurance, guarantee, or letter of credit, accepting

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payment in such manner and form as provided therein if a participating provider defaults, and to assign any such insurance, guarantee, or letter of credit as security for bonds issued by the authority.

SECTION 4. [EFFECTIVE JULY 1, 2000] The general assembly finds that the state needs the construction of a judicial/legislative facility and that the state will have a continuing need for the use and occupancy of the facility. The general assembly authorizes the state office building commission to provide the facility under IC 4-13.5-1 and IC 4-13.5-4.

SECTION 5. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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